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MEMO ENDORSED

May 14, 2008

Via Overnight Mail

Hon. Richard M. Berman
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street, Room 650
New York, NY 10007

Re: Pesnell v. Viacom International, Inc. et al.
07 Civ. 9523 (RMB)
KM&M File No. 08327.8272

<p><i>Take up discovery issues with Magistrate Judge Fox</i></p> <p>SO ORDERED Date: 5/15/08</p> <p><i>Richard M. Berman</i> Richard M. Berman, U.S.D.J.</p>

Dear Judge Berman:

We represent Defendant/Third-Party Plaintiff Viacom International, Inc. ("Viacom") in the above-referenced proceeding. We write on behalf of Viacom, Defendant Spherion, Inc. ("Spherion") and Third-Party Defendant En Pointe Technologies, Inc. ("En Pointe") to request respectfully that the discovery deadline be extended from May 28, 2008 to July 28, 2008. Plaintiff declined to join this request; notwithstanding that Plaintiff's counsel has completely failed to satisfy his meet and confer obligations, he has stated that he plans to contact the court to request a status conference and/or an informal discovery conference before filing a motion to compel. (A copy of an email from Locksley O. Wade rejecting the parties' joint request, and a response letter from Roy P. Salins are attached hereto).

Although the parties have attempted to conduct discovery so as to complete it prior to the current discovery cut-off of May 28, it now seems clear that the parties will be unable to do so. More particularly, although the parties have been able to resolve several discovery disputes, document discovery is not yet complete and Viacom has thus been unable to conduct the four depositions it has noticed, including Plaintiff's deposition. In fact, not only has Viacom not yet received Plaintiff's responses to Viacom's Second Set of Interrogatories, which were due on May 5, Plaintiff's responses to Spherion's First Set of Interrogatories and First Request for Documents were due on April 4 and Plaintiff has still not provided the outstanding discovery despite Spherion's numerous requests.

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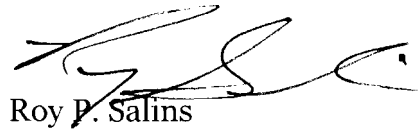
Despite Plaintiff's failures to respond timely to Viacom's and Spherion's discovery requests, we anticipate completing document discovery in the near future. When document discovery is completed, the parties will commence with the aforementioned depositions as expeditiously as possible. Because the parties will not be able to complete those tasks by May 28, we respectfully request that the deadline be extended to July 28.

Moreover, in light of Plaintiff's recent motion to strike Viacom's Third-Party Complaint (which was filed without a pre-motion conference in violation of Your Honor's rules) and threats to file a premature and therefore improper motion to compel, it seems clear that the parties need an extension to the discovery deadline.

We attach a revised case management plan adjusting the other dates in the plan to conform to a discovery deadline of July 28, 2008, with the exception of keeping the currently scheduled status conference for June 24 at 9:00 a.m. This is the parties' first request for an extension to the discovery deadline.

Thank you for your consideration.

Respectfully submitted,



Roy P. Salins

Enclosures

cc: Locksley O. Wade, Esq. (via Overnight Mail, w/encs.)
Donia F. Sawwan, Esq. (via Overnight Mail, w/encs.)
Solomon Jaskiel, Esq. (via Overnight Mail, w/encs.)